

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

JOHN M. GARDNER and SUSAN L.  
GARDNER, husband and wife,  
and MT. HOOD POLARIS, INC.,  
an Oregon Corporation,

05-CV-769-HU

ORDER

Plaintiffs,

v.

TOM MARTIN, dba *THE TOM  
MARTINO SHOW*; WESTWOOD ONE,  
INC., a Delaware corporation;  
and CLEAR CHANNEL COMMUNICATIONS,  
INC., a Texas corporation,

Defendants.

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**BROWN, Judge.**

Magistrate Judge Dennis James Hubel issued Findings and Recommendation (#88) on June 15, 2006, in which he recommended the Court grant in part and deny in part Defendants' Motions for Attorney's Fees (#49, #54) and Supplemental Motions for Attorney's Fees (#77, #80). Defendants Martino and Westwood One, Inc., filed objections to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). *See also United States v. Bernhardt*, 840 F.2d 1441, 1444 (9<sup>th</sup> Cir. 1988); *McDonnell Douglas*

*Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9<sup>th</sup> Cir. 1981), *cert. denied*, 455 U.S. 920 (1982). This Court has carefully considered the Objections of Defendants Martino and West One and concludes Defendants' Objections do not provide a basis to modify the Findings and Recommendation. The Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

#### **CONCLUSION**

The Court **ADOPTS** Magistrate Judge Hubel's Findings and Recommendation (#88) and, therefore, **GRANTS in part** and **DENIES in part** Defendants' Motions for Attorney Fees (#49, #54) and Supplemental Motions for Attorney Fees (#77, #80). Accordingly, the Court awards Defendants Martino and Westwood a total of \$20,982.50 in attorneys' fees and awards Defendant Clear Channel a total of \$6,517.50 in attorneys' fees.

IT IS SO ORDERED.

DATED this 19<sup>th</sup> day of September, 2006.

/s/ Anna J. Brown

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ANNA J. BROWN  
United States District Judge